

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

REO Investments, LLC, Individually and
on behalf of all others similarly situated,

Plaintiff,

vs.

CITY OF EUCLID

Defendant.

CASE NO.

JUDGE

**CLASS ACTION COMPLAINT FOR
DECLARATORY, EQUITABLE, AND
OTHER RELIEF**

Now comes Plaintiff REO Investments, LLC by and through Counsel for itself and on behalf of all other persons, entities, and/or organizations¹ similarly situated, and for the complaint against Defendant City of Euclid states:

INTRODUCTION

This is a 42 U.S.C. Section 1983 and equitable action against the City of Euclid: (1) to declare unconstitutional its ordinance and practice thereunder of entering private property without a warrant for point of sale or rental inspections under threat of criminal prosecution; and (2) to recover the fees collected from Plaintiff and the class members in connection with those warrantless, unconstitutional entries.

PARTIES

1. Plaintiff is an entity and resident of Chesterland, Ohio.
2. Defendant City of Euclid, Ohio is a body politic located in the Northern District of Ohio, Eastern Division.

¹Hereinafter, the terms “person(s)” and “putative class” member(s) shall mean and include all natural persons, entities, and/or organizations.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction over this suit pursuant to 28 U.S.C. Section 1331 because this case involves a federal question including claims under the Fourth, Fifth, and Fourteenth Amendments to the United States Constitution, and under 28 U.S.C. Section 1343 for deprivations of rights, privileges or immunities secured by the United States Constitution and under 42 U.S.C. Section 1983 for a violation of Constitutional rights by Defendant's actions taken under color of law.

4. Venue is proper in this district pursuant to 28 U.S.C. 1391(b) because Defendant is situated within this district and the conduct complained of and the claims alleged arose in this district.

BACKGROUND FACTS

5. Plaintiff is a property owner in the City of Euclid.

6. The City of Euclid ordinances provide for warrantless entry of private property under threat of criminal prosecution.

7. These entries are inspections which Defendant required be conducted prior to the sale (pre-sale inspection) or rental of a property (pre-rental inspection) or the renewal of a rental license (pre-renewal inspection).

8. On or about August, 14, 2014, Defendant's agents entered Plaintiff's property at 1870 Ball Avenue, Euclid, OH, 44132.

9. At the time Defendant had no probable cause and no lawful basis to believe that there was any risk to public health and safety in the property.

10. Further, Defendant required Plaintiff to pay an “inspection fee” of \$100.00 in connection with the entry, which is set by the city ordinances.

11. On multiple occasions prior to and after this inspection, Defendant entered numerous other properties Plaintiff owned and/or rented.

12. Likewise, Defendant has conducted these compelled inspections of putative class members’ properties and required every putative class member to pay this fee for every inspection.

13. The ordinances state that no person can sell or rent his or her property without first enduring a warrantless government search of the entire property.

14. The pre-sale inspection requirements are codified in the Euclid Code of Ordinances, which state, in part, “it shall be unlawful for the owner of any dwelling structure to enter into an agreement to sell or otherwise convey a dwelling structure without first obtaining from the Housing Department a Certification of Inspection of such dwelling structure...”² (pre-sale inspections).

15. Additionally, the pre-rental inspection requirements are codified in the ordinances, which state, in part, “it shall be unlawful for the owner... of any dwelling structure used... or intended to be used as a multiple dwelling or a single or two-family dwelling structure... to rent or lease such structure or any part thereof for residential occupancy... unless the owner thereof holds a Certificate of Occupancy...”³ (pre-rental inspections).

² See City of Euclid Code of Ordinances, Certification of Inspection, at §1759.01 et seq. Available online at [http://library.amlegal.com/nxt/gateway.dll/Ohio/euclid_oh/codifiedordinancesofthecityofeuclidohio?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:euclid_oh](http://library.amlegal.com/nxt/gateway.dll/Ohio/euclid_oh/codifiedordinancesofthecityofeuclidohio?f=templates$fn=default.htm$3.0$vid=amlegal:euclid_oh). Last checked March 16, 2018.

³ See *Id.*, at § 1761.01 et seq.

16. Moreover, the ordinances require pre-rental inspections prior to an owner obtaining a Rental License.⁴ (pre-renewal inspections).

17. If a property owner violates Defendant's pre-sale, pre-rental, or pre-renewal inspection requirements, the penalty is criminal prosecution.

18. Specifically, Section 1703.99 states that, "for general Code penalty if no specific penalty is provided..., whoever violates or fails to comply with any of the provisions of this Building and Housing Code...is guilty of a misdemeanor of the first degree and shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months, or both, for each offense."

19. The rental, lease, or sale of a home or the renewal of a rental license is derailed unless a warrantless inspection is conducted prior to property owners being able to rent, lease, or sell their property or renew a rental license, since neither the would-be tenants nor prospective buyers can occupy the property absent a Certificate of Inspection, Occupancy Permit, or Rental License, all of which require the inspection.

20. By threat of criminal prosecution, Defendant is compelling property owners like Plaintiff and the putative class members to submit to warrantless inspections and to pay concomitant fees.

21. This is the exact scheme that the United States Supreme Court and Ohio courts have consistently found to violate the law. *Camara v. Mun. Court of City and County of San Francisco*, 387 U.S. 523 (1967); *Wilson v. City of Cincinnati*, 346 N.E.2d 666 (Ohio 1976); *Baker v. City of Portsmouth*, 2015 WL 5822659 (S.D. Ohio 2015); *Thompson v. City of Oakwood, Ohio*, 2018 WL 776375 (S.D. Ohio 2018).

CLASS ALLEGATIONS

⁴ *Id.* at § 1761.05 et seq.

22. Plaintiff realleges and incorporates herein all previous paragraphs of this Complaint.

23. Plaintiff brings this action on behalf of herself and on behalf of a proposed class (hereinafter "Plaintiff" or "putative class members", respectively) consisting of:

All persons, entities, and/or organizations which have paid pre-sale, pre-rental, or pre-renewal inspection fees to the City of Euclid since June 11, 2012.

24. This class numbers over forty (40) persons and is so numerous that joinder of all members is impracticable, and it is further impracticable to bring all such persons before this Court.

25. The injuries and damages to these putative class members present questions of law and fact that are common to each putative class member, and that are common to the entire class as a whole.

26. Defendant has engaged in the same conduct regarding all of the other members of the class asserted in this suit. The questions of law and fact common to the members of the class predominate over any questions affecting only individual members.

27. The claims, defenses, and injuries of the representative plaintiff are typical of the claims, defenses, and injuries of the entire class, and the claims, defenses, and injuries of each putative class member are typical of those of the entire class.

28. Representative Plaintiff will fully and adequately protect and represent the entire class, and all of its putative class members.

29. The identity of all members of this class cannot be determined at this time, but will be so determined at a later time upon obtaining discovery from Defendant and others.

30. The prosecution of separate actions by each putative class member would create a substantial risk of inconsistent or varying adjudications with regard to individual members of the class that would establish incompatible standards of conduct for Defendant.

31. The prosecution of separate actions would also create a substantial risk of adjudication with respect to individual members of the class which, as a practical matter, would be dispositive of the interest of other members not parties to that adjudication, thereby substantially impairing and impeding their ability to protect these interests. Further, the maintenance of this suit as a class action is the superior means of disposing of the common questions which predominate herein.

COUNT I
Declaratory Judgment
(28 USC §2201)

32. Plaintiff realleges and incorporates herein all previous paragraphs of this Complaint.

33. An actual controversy has arisen and now exists between Plaintiff and Defendant concerning Plaintiff's and the putative class members' rights under the United States Constitution. A judicial declaration is necessary and appropriate at this time.

34. A state actor is liable under 42 USC § 1983 if it took "action pursuant to official policy of some nature [that] caused a constitutional tort."

35. A state actor cannot constitutionally condition the receipt of a benefit, such as a sale or occupancy permit, on an agreement to refrain from exercising one's constitutional rights, particularly one's right to be free from unreasonable governmental searches.

36. Plaintiff respectfully requests this court for a judicial determination of its rights against Defendant as they pertain to Plaintiff's and the putative class members' rights to be free from unlawful searches and being coerced to surrender their property rights and/or privileges.

37. In order to prevent violation of Plaintiff's and the putative class members' constitutional rights by Defendant, it is appropriate and proper that a declaratory judgment be issued pursuant to 28 USC §2201 and Federal Rule of Civil Procedure (FRCP) 57, declaring unconstitutional, facially and as-applied here, all relevant portions of the City of Euclid, Ohio pre-sale, pre-rental, and pre-renewal inspection requirements, as well as Defendant's enforcement policies, practices, and actions related to the requirements.

38. Furthermore, pursuant to 28 USC §2202 and FRCP 65, it is appropriate and hereby requested that this Court issue preliminary and permanent injunctions prohibiting the Defendant from enforcing its search policies and all policies, practices, and conduct reliant on and related to the pre-sale, pre-rental, and pre-renewal search policies, including but not limited to the pre-sale, pre-rental, and pre-renewal inspection requirements' search fees and permitting processes, to the extent they are unconstitutional, in order to prevent the ongoing violation of Plaintiffs' and the putative class members' constitutional rights.

COUNT II

Violation of Due Process and Freedom from Unconstitutional Searches Pursuant to the Fourth, Fifth, and Fourteenth Amendments to the U.S. Constitution (42 USC §1983)

39. Plaintiff realleges and incorporates herein all previous paragraphs of this Complaint.

40. At all times relevant, Defendant and its agents were acting under the color of law.

41. The Fourth Amendment states, in relevant part, that the “right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated” (emphasis added).

42. More specifically, the Fourth Amendment prohibits placing parties in a position where they must consent to a warrantless inspection of their property or face potential criminal penalty.

43. Defendant’s pre-sale, pre-rental, and pre-renewal inspection requirements are coercive because they do exactly that: they place Plaintiff and the putative class members in a position to either submit to a warrantless inspection or face potential criminal penalty.

44. Defendant’s pre-sale, pre-rental, and pre-renewal inspection requirements, as a physical intrusion into a home, is a "search" as contemplated by the Fourth Amendment.

45. This search was unreasonable because Defendant coerced the consent of the Plaintiff by the direct threat of criminal prosecution and penalty.

46. Additionally, the Fifth Amendment states, in relevant part, that “No person shall be deprived of life, liberty, or property, without due process of law.”

47. By threatening Plaintiff and the putative class members with criminal prosecution unless they gave up their Fourth Amendment right to be free from unreasonable governmental searches, Defendant has violated Plaintiff and the putative class members’ Fifth Amendment Due Process rights.

COUNT III
Unjust Enrichment, Disgorgement and Restitution

48. Plaintiff hereby incorporates by reference the allegations in the foregoing paragraphs as if set forth fully herein.

49. Claims for equitable relief can be held against a state or municipal actor.

50. Unjust enrichment occurs when a benefit is conferred by a plaintiff on a defendant, defendant knows of this benefit, and retains it under circumstances where it would be unjust for defendant to do so.

51. Here, Defendant has charged a fee attendant to a compelled, warrantless unconstitutional search.

52. Defendant unconstitutionally compelled the search of Plaintiff and the putative class members' properties, and, therefore, unjustly compelled Plaintiff and the putative class members to pay this fee.

53. Defendant has obtained and retained this fee under circumstances where it is unjust for it to do so.

54. In fact, in *Baker v. Portsmouth* (and other cases referenced above in ¶21), the Federal Courts in Ohio have found this exact same kind of unlawfully coerced inspection fee to be an unjustly collected and retained fee and required the fee to be refunded to property owners.

55. Plaintiff and the putative class members are similarly entitled to a refund of the unlawful inspection fees.

PRAYER FOR RELIEF

WHEREFORE Plaintiff demands judgment as follows:

1. For an Order determining at the earliest possible time that this matter may proceed as a class action under Civil Rule 23 and certifying this case as such;

2. Declare that the City of Euclid's pre-sale, pre-rental, and/or pre-renewal inspection requirement, authorizing warrantless searches without probable cause, is unconstitutional, both facially and as applied to Plaintiff and the putative class members;

3. Declare that the pre-sale, pre-rental, and pre-renewal inspection scheme is unconstitutional, including but not limited to the financial extraction for inspections and the permit/licensing requirement, violate Plaintiff's Fourth, Fifth, and Fourteenth Amendment rights;

4. Declare that the existence of the pre-sale, pre-rental, and pre-renewal inspection scheme is an insufficient basis, without more, to obtain a warrant to search a private residential home;

5. Declare that through the imposition of monetary assessments on Plaintiff and others, precipitated by Defendant's desire to fund the costs of the pre-sale, pre-rental, and pre-renewal inspection requirements, Defendant has been and continues to be unjustly enriched;

6. Certify the Class that Plaintiff has proposed herein;

7. Pursuant to 42 U.S.C. §1983 and other applicable law, award Plaintiff its costs and expenses incurred in bringing this action, including reasonable attorneys' fees;

8. Grant such other and further relief as the Court deems equitable, just, and proper.

Respectfully submitted,

/s/ Patrick J. Perotti

Patrick J. Perotti, Esq. (#0005481)

Nicole T. Fiorelli, Esq. (#0079204)

Frank A. Bartela, Esq. (#0088128)

DWORKEN & BERNSTEIN CO., L.P.A.

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Email: pperotti@dworkenlaw.com

fbartela@dworkenlaw.com

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

REO Investments, LLC, Individually and on behalf of all others similarly situated,

(b) County of Residence of First Listed Plaintiff Geauga
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Patrick J. Perotti, Esq./Dworken & Bernstein Co., L.P.A
60 S. Park Place, Painesville, OH 44077
440-352-3391

DEFENDANTS

City of Euclid

County of Residence of First Listed Defendant Cuyahoga
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XV1 <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation - Transfer
- 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 U.S.C. §1983

Brief description of cause:

Unconstitutional Warrantless Inspections/Unjust Enrichment

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE 6/11/18

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

I. Civil Categories: (Please check one category only).

- 1. General Civil
- 2. Administrative Review/Social Security
- 3. Habeas Corpus Death Penalty

*If under Title 28, §2255, name the SENTENCING JUDGE: _____

CASE NUMBER: _____

II. **RELATED OR REFILED CASES.** See LR 3.1 which provides in pertinent part: "If an action is filed or removed to this Court and assigned to a District Judge after which it is discontinued, dismissed or remanded to a State court, and subsequently refiled, it shall be assigned to the same Judge who received the initial case assignment without regard for the place of holding court in which the case was refiled. Counsel or a party without counsel shall be responsible for bringing such cases to the attention of the Court by responding to the questions included on the Civil Cover Sheet."

This action: is RELATED to another PENDING civil case is a REFILED case was PREVIOUSLY REMANDED

If applicable, please indicate on page 1 in section VIII, the name of the Judge and case number.

III. In accordance with Local Civil Rule 3.8, actions involving counties in the Eastern Division shall be filed at any of the divisional offices therein. Actions involving counties in the Western Division shall be filed at the Toledo office. For the purpose of determining the proper division, and for statistical reasons, the following information is requested.

ANSWER ONE PARAGRAPH ONLY. ANSWER PARAGRAPHS 1 THRU 3 IN ORDER. UPON FINDING WHICH PARAGRAPH APPLIES TO YOUR CASE, ANSWER IT AND STOP.

(1) **Resident defendant.** If the defendant resides in a county within this district, please set forth the name of such county
COUNTY: Cuyahoga
Corporation For the purpose of answering the above, a corporation is deemed to be a resident of that county in which it has its principal place of business in that district.

(2) **Non-Resident defendant.** If no defendant is a resident of a county in this district, please set forth the county wherein the cause of action arose or the event complained of occurred.
COUNTY:

(3) **Other Cases.** If no defendant is a resident of this district, or if the defendant is a corporation not having a principle place of business within the district, and the cause of action arose or the event complained of occurred outside this district, please set forth the county of the plaintiff's residence.
COUNTY:

IV. The Counties in the Northern District of Ohio are divided into divisions as shown below. After the county is determined in Section III, please check the appropriate division.

EASTERN DIVISION

- AKRON (Counties: Carroll, Holmes, Portage, Stark, Summit, Tuscarawas and Wayne)
- CLEVELAND (Counties: Ashland, Ashtabula, Crawford, Cuyahoga, Geauga, Lake, Lorain, Medina and Richland)
- YOUNGSTOWN (Counties: Columbiana, Mahoning and Trumbull)

WESTERN DIVISION

- TOLEDO (Counties: Allen, Auglaize, Defiance, Erie, Fulton, Hancock, Hardin, Henry, Huron, Lucas, Marion, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca VanWert, Williams, Wood and Wyandot)

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; NOTE: **federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Northern District of Ohio

REO Investments, LLC, Individually and on behalf of
all others similarly situated,

Plaintiff

v.

City of Euclid

Defendant

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Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

City of Euclid
585 East 222nd St.
Euclid, OH 44123

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Patrick J. Perotti, Esq.
Frank A. Bartela, Esq.
Dworken & Bernstein Co., L.P.A
60 S. Park Place, Painesville, OH 44077
440-352-3391

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

SANDY OPACICH, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify):* _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print

Save As...

Reset

ClassAction.org

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